

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 976

**Introduced by Assembly Member Atkins
(Principal coauthor: Assembly Member Stone)**

February 22, 2013

An act to amend, *repeal, and add* Section 30823 of, and to add Section 30821 to, the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 976, as amended, Atkins. Coastal resources: California Coastal Act of 1976: enforcement: penalties.

(1) The California Coastal Act of 1976 requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes the superior court to impose civil liability on a person who performs or undertakes development that is in violation of the act or that is inconsistent with a previously issued coastal development permit, and on a person who violates the act in any other manner.

This bill would provide that a person who violates the act is subject to an administrative civil penalty that may be imposed by the California Coastal Commission by a majority vote of the commissioners, upon consideration of various factors, in an amount not to exceed 75% of the maximum civil penalty that may be imposed in the superior court, as specified.

This bill would provide that a person, as defined, shall not be subject to both monetary civil liability imposed by the commission and monetary civil liability imposed by the superior court for the same act or failure to act. In the event that a person who is assessed a penalty by the commission fails to pay the penalty, fails to comply with a restoration or cease and desist order, or challenges any of these actions in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant relief, as specified. This bill would also allow the commission to record a lien on the property of a violator in the amount of the penalty assessed by the commission if the violator fails to pay the penalty.

(2) The act requires that all funds derived from the payment of a penalty are to be deposited into the Violation Remediation Account of the State Coastal Conservancy Fund, until appropriated by the Legislature, for purposes of carrying out the act.

This bill would instead provide that, *until January 1, 2017*, \$1,500,000 of the funds annually derived from the payment of a penalty be deposited into that Violation Remediation Account, as adjusted, and that any additional funds be deposited in the Coastal Act Services Fund, until appropriated by the Legislature, for the purposes of carrying out the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30821 is added to the Public Resources
- 2 Code, to read:
- 3 30821. (a) In addition to any other penalties imposed pursuant
- 4 to this division, a person, including a landowner, who is in violation
- 5 of a provision of this division is subject to an administrative civil
- 6 penalty that may be imposed by the commission in an amount not
- 7 to exceed 75 percent of the amount of the maximum penalty
- 8 authorized pursuant to subdivision (b) of Section 30820 for each
- 9 violation.
- 10 (b) All penalties imposed pursuant to subdivision (a) shall be
- 11 imposed by majority vote of the commissioners present in a duly
- 12 noticed public hearing in compliance with the requirements of
- 13 Section 30810, 30811, or 30812.

1 (c) In determining the amount of civil liability, the commission
2 shall take into account the factors set forth in subdivision (c) of
3 Section 30820.

4 (d) A person shall not be subject to both monetary civil liability
5 imposed under this section and monetary civil liability imposed
6 by the superior court for the same act or failure to act. In the event
7 that a person who is assessed a penalty under this section fails to
8 pay the administrative penalty, otherwise fails to comply with a
9 restoration or cease and desist order issued by the commission in
10 connection with the penalty action, or challenges any of these
11 actions by the commission in a court of law, the commission may
12 maintain an action or otherwise engage in judicial proceedings to
13 enforce those requirements and the court may grant any relief as
14 provided under this chapter.

15 (e) If a person fails to pay a penalty imposed by the commission
16 pursuant to this section, the commission may record a lien on the
17 property in the amount of the penalty assessed by the commission.
18 This lien shall have the force, effect, and priority of a judgment
19 lien.

20 (f) In enacting this section, ~~it is not the intent of the Legislature~~
21 ~~that unintentional, minor violations that only cause de minimis~~
22 ~~harm should lead to civil penalties, if the violator has acted~~
23 ~~expeditiously to correct the violation consistent with this act~~ *it is*
24 *the intent of the Legislature to ensure that unintentional, minor*
25 *violations of this division that only cause de minimis harm will*
26 *not lead to the imposition of civil penalties if the violator has acted*
27 *expeditiously to correct the violation.*

28 (g) "Person," for the purpose of this section, does not include
29 a local government, a special district, or an agency thereof when
30 acting in a legislative or adjudicative capacity.

31 SEC. 2. Section 30823 of the Public Resources Code is
32 amended to read:

33 30823. (a) (1) Except as provided in subdivision (b), of the
34 funds annually derived pursuant to this article, one million five
35 hundred thousand dollars (\$1,500,000) shall be deposited in the
36 Violation Remediation Account of the State Coastal Conservancy
37 Fund.

38 (2) The one million five hundred thousand dollars (\$1,500,000)
39 specified in paragraph (1) shall be adjusted annually, based on the
40 percentage change in the California Consumer Price Index, as

1 determined pursuant to Section 2212 of the Revenue and Taxation
2 Code.

3 (b) Any additional funds derived pursuant to this article that
4 exceed the annual amount determined pursuant to subdivision (a)
5 shall be deposited in the Coastal Act Services Fund, established
6 pursuant to subdivision (a) of Section 30620.1, until appropriated
7 by the Legislature, for the purpose of carrying out this division.

8 (c) *This section shall remain in effect only until January 1, 2017,*
9 *and as of that date is repealed, unless a later enacted statute, that*
10 *is enacted before January 1, 2017, deletes or extends that date.*

11 SEC. 3. *Section 30823 is added to the Public Resources Code,*
12 *to read:*

13 30823. (a) *Any funds derived under this article shall be*
14 *expended for carrying out the provisions of this division, when*
15 *appropriated by the Legislature. Funds so derived shall be*
16 *deposited in the Violation Remediation Account of the Coastal*
17 *Conservancy Fund until appropriated.*

18 (b) *This section shall become operative on January 1, 2017.*